

**STATEMENT OF  
COMMISSIONER NATHAN SIMINGTON**

Re: *Unlicensed Use of the 6 GHz Band, Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz*; ET Docket No. 18-295, GN Docket No. 17-183; Second Report and Order and Second Further Notice of Proposed Rulemaking (October 19, 2023)

While I support today's item, I would be remiss if I did not express my reservations about how the *Second Report and Order* dismisses technical arguments made by certain commenters. The analysis within the *Second Report and Order* is thorough and well-reasoned based on the data and simulations it relies upon—the San Francisco and Houston simulations completed by Apple and Broadcom, et al. But what concerns me about today's item is that it does not give adequate consideration to many of the arguments made by commenters who raise concerns about lack of access to crucial data that informs those simulations and the potential for harmful interference to their operations from unlicensed VLP devices.<sup>1</sup> It does so in many instances by pointing to the same simulations relied upon to make its conclusions, as evidence that the arguments against those conclusions are wrong.

I fear that without a thorough deliberation of licensed incumbent's substantive technical arguments, that the Commission may be failing to anticipate instances of harmful interference from VLP devices. And if my fears bear fruit, the Commission could find itself in the position of attempting to police interference fights in a heavily congested environment where it proves difficult, if not impossible, to enforce its rules.

If 6 GHz licensees are unable to identify the source of the interference, they will be unable to file a complaint with sufficient information to allow Commission staff to conduct any enforcement. I am pleased that the Chairwoman addressed my concerns by including additional language about rules enforcement and equipment certification for VLP devices. This additional language, in addition to the promising benefits of 6 GHz devices, is why I support this item. We must carefully consider, through the proceeding teed up in the *Second Further Notice*, what additional steps can or should be taken to mitigate the potential for harmful interference.

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<sup>1</sup> See, e.g., *Second Report and Order* at para. 37 (“we do not agree with AT&T that it is necessary for multiple proximate VLP devices communicating with each other to be specifically modeled by the simulations as such use is implicitly accounted for”) referring to AT&T's Aug. 29, 2023 *Ex Parte*; *id.* at para. 52 (“[w]hile Apple Broadcom et al. and Apple have not made their simulation code or the resulting raw data produced by the simulations publicly available, we believe that they have provided sufficient information for knowledgeable engineers to understand the algorithms and models used in the simulations”) referring to Southern Company Aug. 24, 2023 *Ex Parte*. See also Letter from Michael P. Goggin, AT&T to Marlene H. Dortch, Secretary, Federal Communication Commission, ET Docket No. 18-295 (filed Oct. 11, 2023) at 2; Letter from Patrick McFadden, Senior Vice President and Deputy General Counsel, National Association of Broadcasters, to Marlene H. Dortch, Secretary, Federal Communication Commission, ET Docket No. 18-295 (filed Oct. 11, 2023); See Letter from Larry F. Butts, Director, Telecom Services, Southern Company Services, Inc. to Marlene H. Dortch, Secretary, Federal Communication Commission, ET Docket No. 18-295 (filed Oct. 10, 2023); Letter from Brett Kilbourne, Senior Vice President Policy and General Counsel, Utilities Technology Council to Ms. Marlene H. Dortch Secretary Federal Communications Commission, (ET Docket No. 18-295 (filed Oct. 13, 2023)).

We must be prepared, just in case it turns out that the simulations are in certain instances wrong, and harmful interference is caused by the proliferation of the VLP devices approved of in today's *Second Report and Order*.

As always, thank you to the OET staff for all of their great work.